

REMARKS

§102 rejections

In the 12 May 2006 Office Action claims 28 - 32, 34 - 37, 39 - 41, 43, 45, 46, 48, 51 & 52 are rejected under §102 as being anticipated by U.S. Patent 6,347,306 (hereinafter, Swart). The Examiner has cited the Swart document as a reference. The Assignee respectfully traverses the rejections for anticipation in two ways. First, by noting that the rejections fail under both standards of the APA. Second, by noting that the Office Action has failed to establish a prima facie case of anticipation for the rejected claims. More specifically, the Office Action fails to establish a prima facie case of anticipation in as many as two separate ways for every rejected claim.

The first way in which the 12 May 2006 Office Action fails to establish a prima facie case of anticipation for many if not all of the rejected claims is that the Swart document fails to describe every element of the rejected claims. MPEP 2131 notes that:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The second way in which the 12 May 2006 Office Action fails to establish a prima facie case of anticipation for many if not all of the rejected claims is that the Swart document fails to provide the same level of detail that is present in the claim. MPEP 2131 notes that anticipation requires that:

"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Assignee respectfully submits that the rejection of independent claim 28 can be traversed by noting that Swart: is missing elements contained in claim 28 and provides insufficient detail regarding elements of claim 28. Elements of claim 28 not explicitly or inherently described in the Swart document include: means for developing an entity context, means for context distribution and means for context-based data and information storage. In the 12 May 2006 Office Action the Examiner states that Swart capture, store and distribute resource context data. The Assignee notes that resource

context data is not the same as “the interrelated conditions in which something exists or occurs” – the definition of context provided by the Examiner on the same page. It also differs from the definition of context in claim 28. In addition to confirming that claim 28 does not describe a means for context development, distribution or storage the above statements in the Office Action also make it clear that the level of detail in the claim and the Swart reference are not in congruence. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 28 has not been established. Claims 29 – 32, 34 - 36 are directly dependent on claim 28 so the traversal of the claim 28 anticipation rejection also serves to traverse the rejection of these claims. The Assignee also notes that these claim rejections are moot because claim 28 has been amended.

The Assignee respectfully submits that the rejection of independent claim 37 can be traversed by noting that Swart: is missing elements contained in claim 37 and provides insufficient detail regarding elements of claim 37. Elements of claim 37 not explicitly or inherently described in the Swart document include: developing one or more entity contexts. In the 12 May 2006 Office Action the Examiner states that Swart capture, store and distribute resource context data. The Assignee notes that resource context data is not the same as “the interrelated conditions in which something exists or occurs” – the definition of context provided by the Examiner on the same page. It also differs from the definition of context in claim 37. In addition to confirming that Swart does not describe the development of an entity context the above statements in the Office Action also make it clear that the level of detail in the claim and the Swart reference are not in congruence. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 37 has not been established. Claims 39 – 41, 43 and 45 directly dependent on claim 37 so the traversal of the claim 37 anticipation rejection also serves to traverse the rejection of these claims. The Assignee also notes that these claim rejections are moot because claim 37 has been amended.

The Assignee respectfully submits that the rejection of independent claim 46 can be traversed by noting that Swart: is missing elements contained in claim 46 and provides insufficient detail regarding elements of claim 46. Elements of claim 46 not explicitly or inherently described in the Swart document include: developing one or more entity contexts, identifying a combination of data and information that is relevant to one or

more layers of context for an entity and displaying the results in order of relevance. In the 12 May 2006 Office Action the Examiner states that Swart distributes resource context data. The Assignee notes that resource context data is not the same as “the interrelated conditions in which something exists or occurs” – the definition of context provided by the Examiner on the same page. It also differs from the definition of context implicit in the claim. In addition to confirming that Swart does not describe the development of one or more entity contexts the above statements in the Office Action also make it clear that the level of detail in the claim and the Swart reference are not in congruence. In the 12 May 2006 Office Action the Examiner states that Swart retrieves employee specific context data. The Assignee notes that employee specific context data is not the same as “a combination of data and information that is relevant to one or more layers of context for an entity” or “displaying results in order of relevance”. In addition to confirming that Swart does not describe identifying a combination of data and information that is relevant to one or more layers of context for an entity the above statements in the Office Action also make it clear that the level of detail in the claim and the Swart reference are not in congruence. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 46 has not been established. Claim 48 is directly dependent on claim 46 so the traversal of the claim 46 anticipation rejection also serves to traverse the rejection of this claim. The Assignee also notes that these claim rejections are moot because claim 46 has been amended.

The Assignee respectfully submits that the rejection of independent claim 51 can be traversed by noting that Swart: is missing elements contained in claim 51 and provides insufficient detail regarding elements of claim 51. Elements of claim 51 not explicitly or inherently described in the Swart document include: means for developing an entity context and means for context distribution. In the 12 May 2006 Office Action the Examiner states that Swart capture, store and distribute resource context data. The Assignee notes that resource context data is not the same as “the interrelated conditions in which something exists or occurs” – the definition of context provided by the Examiner on the same page. It also differs from the definition of context in claim 51. In addition to confirming that claim 51 does not describe a means for context development or distribution the above statements in the Office Action also make it clear that the level of detail in the claim and the Swart reference are not in congruence. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 51

has not been established. Claims 52 is directly dependent on claim 51 so the traversal of the claim 51 anticipation rejection also serves to traverse the rejection of this claim. The Assignee also notes that these claim rejections are moot because claim 51 has been amended.

Summarizing the above, the 12 May 2006 Office Action the Assignee respectfully submits that the Examiner has failed to produce the evidence required to establish a prima facie case of anticipation for a single claim. The complete failure to identify anticipation at the claim level clearly illustrates the fact that the cited reference is not even remotely similar to the claimed invention. As noted in MPEP 2112, anticipation requires that a substantial identity be established. Taken together, these failures provide additional evidence that the claimed invention for producing concrete, tangible and useful results is new, novel and non-obvious. The Assignee notes that there are still other ways in which the §102 anticipation rejections in the 12 May 2006 Office Action for claims 28 - 32, 34 - 37, 39 - 41, 43, 45, 46, 48, 51 & 52 can be traversed.

§103 rejections

In the 12 May 2006 Office Action, claims 33, 38, 42, 44, 47, 49, 50 and 53 are rejected under §103 as being unpatentable over the combination of Swart and U.S. Patent 5,887,120 (hereinafter, Wical). U.S. Patent (hereinafter Maeda) was cited together with the previously mentioned references as additional support for the rejection of claims 38, 42, 44 and 49. U.S. Patent (hereinafter Agrawal) was cited together with Swart and Wical as additional support for the rejection of claim 47. U.S. Patent (hereinafter Hellerstein) was cited together with Swart and Wical as additional support for the rejection of claim 50.

The Assignee respectfully traverses the rejections for obviousness in two ways. First, by noting that the rejections fail under both standards of the APA. Second, by noting that the Office Action has failed to establish a prima facie case of obviousness for the rejected claims. More specifically, the 12 May 2006 Office Action fails to establish the required prima facie case of obviousness required to sustain the obviousness rejection of claims 33, 38, 42, 44, 47, 49, 50 and 53 in a number of ways, including:

1. by citing a combination of documents that teach away from their own combination; and
2. by failing to meet the defined criteria for establishing a prima facie case of obviousness.

The Assignee notes that there are still other ways in which § 103 rejections of claims 33, 38, 42, 44, 47, 49, 50 and 53 can be traversed.

The first way the cited combination of documents fails to establish the prima facie case of obviousness required to sustain the rejections of claims 33, 38, 42, 44, 47, 49, 50 and 53 is by citing a combination of documents that teach away from their own combination. MPEP § 2145 X.D.2 provides that: “it is improper to combine references where the references teach away from their combination.” The Swart and Wical documents teach away from the proposed theoretical combination by teaching and relying on incompatible data processing methods. Wical teaches and relies on a centralized analysis of data that relies on a single computer (Wical, FIG. 8, C20 L 51 – C21 L 63). By way of contrast, Swart teaches and relies on a 3 tier client server architecture that uses Java Beans to complete most of the required calculations (Swart, FIG. 3, C7 L48 – C10 L59). Swart specifically teaches away from the centralized computer method of Wical as it is inflexible (C10, L32 – 35). It clearly would be improper to combine the teachings of a document that relies on a centralized data processing system with the teachings of a document that teaches away from the use of centralized data processing systems. The Wical document also teaches away from a combination with Maeda. Wical teaches and relies on a pre-determined set of criteria (Wical, C9 L48 – 52) to categorize text in accordance with static ontologies (Wical, C11 L3 – 7). Maeda teaches away from a combination with Wical by disclosing a method for automatically learning the criteria for relating input data to outputs (Maeda, C12 L37 – C14 L35). It clearly would be improper to combine a method that relies on static criteria for classification with a method that teaches the automated learning of criteria.

The second reason the cited combination of documents fails to establish the prima facie case of obviousness required to sustain the rejection of claims 33, 38, 42, 44, 47, 49, 50 and 53 is that it fails to meet any of the criteria required for establishing a prima facie case of obviousness. MPEP 2142 provides that: in order to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or combine the reference

teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The 12 May 2006 Office Action fails to meet the first criteria for establishing a prima facie case of obviousness for claims 33, 38, 42, 44, 47, 49, 50 and 53 because it does not provide any meaningful evidence indicating that there was any suggestion, teaching or motivation (including scientific reasoning) in the prior art to modify or combine the teachings of Swart, Wical, Maeda, Hellertein and/or Agrawal. In fact the opposite is true as the documents provided by the Examiner, teach that there is an incentive not to complete the theoretical combination contained in the Office Action. It is well established that “teachings of references can be combined only if there is some suggestion or incentive to do so” quoting ACS Hosp. Sys., Inc. v Montefiore Hosp., 732 F.2d 1572, 1577 221 U.S.PQ 929,933 (Fed. Cir. 1984). Reasons for not completing the proposed theoretical combination include: the motivation for the cited combination requires an arbitrary and capricious re-definition of terms (see objections), the cited combination teaches incompatible methods for data processing and the cited combination teaches incompatible methods for learning.

The 12 May 2006 Office Action fails to meet the second criteria for establishing a prima facie case of obviousness for claims 33, 38, 42, 44, 47, 49, 50 and 53 because it does not cite a combination of documents that has a reasonable expectation of success. There are several reasons why the cited combination of documents (Swart, Wical, Maeda, Hellertein and Agrawal) does not have a reasonable expectation of success. These reasons include: the cited combination teaches incompatible methods for data processing, the cited combination teaches incompatible methods for learning and the Examiner has been unable to explain how the teachings of the cited documents could be combined to produce anything useful. It is well established that “particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed” (In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000)). In spite of this well know requirement, the Office Action has not described how the teachings of these references would be combined or the reason for doing so. Furthermore, as detailed above, the reference teachings make it obvious that the cited combination should not be

made and that once made it could not reasonably be expected to produce anything useful.

As noted previously, The 12 May 2006 Office Action also fails to meet the third criteria for establishing a prima facie case of obviousness. The cited theoretical combination fails the third criteria because it does not teach or suggest one or more limitation for every claim (33, 38, 42, 44, 47, 49, 50 and 53). Limitations not taught by the theoretical combination include: developing an entity context, context distribution, data integration of any kind, context quotient and sorting search results based on relevance.

Summarizing the above, the 12 May 2006 Office Action the Assignee respectfully submits that the Examiner has failed to produce the evidence required to establish a prima facie case of obviousness for a single claim. Taken together with the failure to establish a prima facie case of anticipation, these failures provide additional evidence that the claimed invention for producing concrete, tangible and useful results is new, novel and non-obvious. The Assignee notes again that there are still other ways in which § 103 rejections of claims 33, 38, 42, 44, 47, 49, 50 and 53 can be traversed.

§101 rejections

In the 12 May 2006 Office Action, claims 28-51 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. This rejection is respectfully traversed by noting that the Examiner has failed to establish a prima facie case that any claims are directed to non-statutory subject matter. Furthermore, the rejection of each claim under 35 U.S.C. § 101 can be traversed as detailed below.

In the 12 May 2006 Office Action, the Examiner asserts that claims 28-36 are “software modules devoid of any apparent software, and therefore are computer programs e.g., functional descriptive material”. Thus, the Examiner is apparently asserting that these claims recite computer programs *per se*. The Assignee respectfully disagrees. Initially, the Assignee points out that independent claim 28 includes elements written in means plus function language under 35 U.S.C. § 112, 6th paragraph. Thus, the scope of each “means” element is defined as the corresponding structure set forth in the specification as performing the function of that element, and equivalents thereof. Here, the Assignee respectfully submit that the specification clearly discloses hardware and/or computer-readable media for performing functions corresponding to “means” elements in

independent claim 28. See, e.g., Fig. 5; page 49, line 1 *et seq.* Thus, The Assignee respectfully submits that, upon proper interpretation of claim 28, the Examiner will realize that this claim recites a useful machine in which its physical structure is identified in terms of hardware or hardware and software combinations. Thus, as discussed in the Examination Guidelines for Computer Related Inventions (MPEP § 2106; hereafter referred to as “the Guidelines”), claim 28 recites a statutory product claim (particularly, see § 2106.IV.B.2(a)). Furthermore, claims 29-36 are statutory at least by virtue of their dependency on claim 28. At least for the reasons given above, the Examiner is respectfully requested to reconsider and withdraw this rejection of claims 28-36.

In the 12 May 2006 Office Action, the Examiner asserts that claims 37-45 and 51 are directed to an abstract idea, rather than a practical application. The Examiner further attempts to treat these claims as computer-implemented process claims requiring a “concrete, useful and tangible result” set forth in *State Street Bank & Trust Co. v. Signature Fin. Group Inc.* (47 USPQ2d 1596, 1601 (Fed. Cir.), *cert. denied* 525 U.S. 1093 (1999)).

As to claims 37-45, The Assignee find the Examiner’s ground of rejection curious since independent claim 37 is clearly directed to “[a] computer readable medium having sequences of instructions stored therein.” According to the Guidelines, claim 37 is a statutory product claim. Specifically, the Examiner is respectfully referred to MPEP § 2106.IV.B.1(a), which states the following:

In contrast [to computer programs *per se*], a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer’s program to be realized, and **is thus statutory.**” (Emphasis added.)

Here, claim 37 recites a sequence of instructions that impart functionality to the invention by aggregating data, developing one or more entity contexts, etc. Further, claim 37 does define the structural and functional interrelationships permitting such functionality to be realized because the instructions are embodied on a computer readable medium. Accordingly, The Assignee respectfully submit that claim 37 recites a statutory article of manufacture and are, as such, satisfies the requirements of 35 U.S.C. § 101. Accordingly, claims 38-45 are also statutory at least by virtue of their dependency on

claim 37. As to independent claim 51, this claim recites a device with a processor, and a storage medium available to the processor with sequences of instructions stored therein. Thus, claim 51 is clearly not directed to an abstract idea or a process. Claim 51 further recites that the instructions, when executed, cause the processor to perform various functions. Specifically, the claimed storage device is a statutory article of manufacture at least for reasons similar to those set forth above in connection with claim 37. Furthermore, claim 51 also recites a statutory product because it identifies the physical structure of a useful machine in terms of its hardware and software (“a device with a processor having circuitry to execute instructions”). See MPEP § 2106.IV.B.2(a).

At least for the reasons given above, The Assignee submit that claims 37-45 and 51 are statutory under § 101. As such, the Examiner is respectfully requested to reconsider and withdraw this rejection of claims 37-45 and 51.

In the 12 May 2006 Office Action, the Examiner asserts that claims 46-50 are also directed to an abstract idea and, thus, are non-statutory. The Assignee respectfully submits that a claimed process is statutory if it is limited to a practical application in the technological arts. As discussed by the Examiner, a claimed process is limited to a practical application if it produces a “useful, concrete and tangible result” (*State Street* at 47 USPQ2d 1601). In *State Street*, it was held that a useful, concrete and tangible result is attained by the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price (see *Id*). Similar to the claims in *State Street*, claims 46-50 also use a machine to transform data representing aspects of a real world entity to produce a result that is useful, concrete and tangible. Specifically, the claimed invention identifies aspects of the real world entity that are relevant to the entity’s context. Those of ordinary skill in the art will realize that such a result is useful, concrete and tangible because it facilitates the analysis and management of a real world entity. Furthermore, the invention of claims 46-50 identifies computer data relevant to the entity and displays the results in order of relevance. Those of ordinary skill in the art would immediately recognize this to be a practical application in the technological arts. For example, search engines providing similar types of service are extremely popular on the Internet, as well as other commercial applications. Thus, the Assignee respectfully submit that these claims are directed to a practical application, rather than an abstract idea, and are thus statutory under § 101.

While not required for the reasons outlined above, the Assignee has also amended at least one of the independent claims obviating all or part of the § 101 rejections.

Objections

The Assignee objects to all attempts by the Examiner to re-define the terms used in the specification and/or claims. The Assignee has omitted a specific reference to all of these attempts because claim amendments have rendered a portion of these attempts at term re-definition moot. The following is a list of some of the term re-definitions and statements that the Assignee objects to in the 12 May 2006 Office Action:

- 1) The Assignee objects to the attempts by the Examiner to re-define the term entity for three reasons:
 - a) the Assignee respectfully submits that the proposed definition does not make sense. For example, the Assignee is not aware of any concepts that collect, maintain or distribute data;
 - b) the proposed definition changes one or more limitations associated with the term entity. This is unacceptable because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ 1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967); and
 - c) the Examiner has not identified any reason or reasons that the term needs to be redefined or interpreted.
- 2) The Assignee objects to the statement by the Examiner to the effect that the “time and attendance system is an entity specific system employing all the hardware and software necessary to capture, store and distribute resource context data” for two reasons:
 - a) the Assignee respectfully submits that the statement does not make sense given the Examiner’s statement in the Office Action to the effect that context is “the

interrelated conditions in which something exists or occurs” as it is well known to those of average skill in the art that time and attendance records only capture a portion of the interrelated conditions in which something exists or occurs”; and

- b) the time and attendance system captures data that are concerned with both the element and resource contexts of an entity and the statement amounts to a redefinition of key terms in the specification. This is unacceptable because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ 1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967).
- 3) The Assignee objects to the statement by the Examiner to the effect that “the time and attendance system is an entity specific system employing all the hardware and software necessary to capture, store and distribute resource context data” for two reasons:
- a) the Assignee respectfully submits that the statement does not make sense given the Examiner’s statement in the Office Action to the effect that context is “the interrelated conditions in which something exists or occurs” as it is well known to those of average skill in the art that time and attendance records only capture a portion of the interrelated conditions in which something exists or occurs; and
 - b) the time and attendance system captures data that are concerned with both the element and resource contexts of an entity and the statement amounts to a redefinition of key terms in the specification. This is unacceptable because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ 1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967).
- 4) The Assignee objects to the attempts by the Examiner redefine schema as a profile or database definition defining aspects of the database, e.g., attributes fields for three reasons

- a) the proposed definition is contrary to the dictionary definition of the term;
 - b) the proposed definition changes one or more limitations associated with the term schema. This is unacceptable because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d. 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ 1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967); and
 - c) the Examiner has not identified any reason or reasons that the term needs to be redefined or interpreted.
- 5) The Assignee objects to the attempts by the Examiner redefine the term "Context Quotient of 200" as a maximal range or value for two reasons
- a) the proposed definition changes one or more limitations associated with the term context quotient. This is unacceptable because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d. 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ 1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967); and
 - b) the Examiner has not identified any reason or reasons that the term needs to be redefined or interpreted.
- 6) The Assignee objects to the attempts by the Examiner redefine the word layer for three reasons:
- a) the proposed definition is contrary to the dictionary definition of the term;
 - b) the proposed definition changes one or more limitations associated with the term layer. This is unacceptable because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d. 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ

1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967); and

- c) the Examiner has not identified any reason or reasons that the term needs to be redefined or interpreted.

7) The Assignee objects to the attempts by the Examiner redefine the word search to equate it with the retrieval of data from a database for three reasons:

- a) the proposed definition is contrary to the dictionary definition of the term;
- b) the proposed definition changes one or more limitations associated with the term search. This is unacceptable because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d. 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ 1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967); and
- c) the Examiner has not identified any reason or reasons that the term needs to be redefined or interpreted.

As a result of these attempts to redefine terms, the Examiner has written an Office Action for an invention that is only tangentially related to the invention described in the specification.

Statement under 37 CFR 1.111

37 CFR 1.111 requires that the basis for amendments to the claims be pointed out after consideration of the references cited or the objections made. 37 CFR 1.111 states in part that:

In amending in response to a rejection of claims in an application or patent undergoing reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections.

The Assignee notes that this requirement is not relevant to the instant application because, as detailed above, there are no references or objections to avoid. Having said that, the Assignee notes that the primary reason the prior set of claims were amended and/or cancelled was to put the application in a form for issue and allowance by fixing inadvertent clerical errors. The changes also serve to obviate the § 101 rejections, however, this was not a requirements for the reason outlined above. The table below shows where at least some of the support for the new claims can be found in the specification and drawings.

New Claims	Support includes:
Amended claims 28, 29, 37, 42 - 44	FIG. 8A, Paragraph 3 – 151, 170 - 342
Amended claims 46 and 51	FIG. 8A, Paragraph 3 – 151, 170 - 342
New Claims 54 - 59	FIG. 8A, Paragraph 3 – 151, 170 - 342
New Claims 60 - 65	FIG. 8A, Paragraph 3 – 151, 170 - 342
New Claims 66 - 69	FIG. 8A, Paragraph 3 – 151, 170 - 342

Support for the new claims can be also be found in the drawings and specification of one or more cross referenced applications.

Reservation of rights

The Assignee hereby explicitly reserves the right to present the previously modified and/or canceled claims for re-examination in their original format. The cancellation or modification of pending claims to put the instant application in a final form for allowance and issue is not to be construed as a surrender of subject matters covered by the original claims before their cancellation or modification.

Conclusion

The Assignee would like to thank the Examiner for detailing the reasoning that was used to justify the rejection of some of the claims in the instant application. The pending claims are of a form and scope for allowance. Prompt notification thereof is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B.J. Bennett", with a long horizontal flourish extending to the right.

B.J. Bennett, President Asset Trust, Inc.

Date: August 29, 2006